

UNITED STATES DISTRICT COURT
for the

Northern District of New York

UPSTATE NEW YORK ENGINEERS HEALTH FUND, etc., et al.)
)
)
)
)
<i>Plaintiff(s)</i>)
)
v.)
)
Hayes Paving, Inc. and Brian Hayes, Individually and as an Officer of Hayes Paving, Inc.)
)
)
)
<i>Defendant(s)</i>)

Civil Action No. 5:13-CV-1225 (GTS/DEP)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Brian Hayes
11 Sheffield Road
Gansevoort, New York 12831

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Jennifer A. Clark, Esq.

Blitman & King LLP
Franklin Center, Suite 300
443 North Franklin Street
Syracuse, New York 13204-5412

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.




s/ Lynda Hennesy

Signature of Clerk or Deputy Clerk

Date: 10/2/2013

STATE OF NEW YORK

U.S. DISTRICT COURT - NORTHERN DISTRICT OF NEW YORK

DISTRICT:

ATTORNEY(S): : PH:

ADDRESS: File No.:

COUNTY OF

INDEX #:

5:13-cv-1225

Date Filed: October 2, 2013

UPSTATE NEW YORK ENGINEERS HEALTH FUND, etc., et al,

vs

Plaintiff(s)/Petitioner(s)

HAYES PAVING, INC., BRIAN HAYES, INDIVIDUALLY, et al,

Defendant(s)/Respondent(s)

STATE OF NEW YORK, COUNTY OF SARATOGA

AFFIDAVIT OF SERVICE

Sarah Roberts, being duly sworn deposes and says that deponent is not a party to this action, is over the age of 18 years and resides in the State of NEW YORK. That on December 31, 2013 at 3:05PM, at 142 Buda Drive Mayfield NY 12117, deponent served the within

Summons and Complaint - General Order #25 - Civil Case Management Plan

Case Assignment Form and Consent to Exercise of Civil Jurisdiction by a Magistrate Judge and Appeal Option

on: Brian Hayes, Individually, therein named.

#1 INDIVIDUAL By delivering a true copy of each to said recipient personally; deponent knew the person served to be the person described as said person therein.

#2 CORPORATION/ By delivering thereat a true copy of each to personally, deponent knew the person so served ENTITY to be the of the entity, and authorized to accept service on behalf of the Corporation/Government Agency/Entity.

#3 SUITABLE AGE PERSON By delivering a true copy of each to a person of suitable age and discretion. Said premises is recipient's: [] actual place of business [] dwelling house (usual place of abode) within the state.

#4 AFFIXING TO DOOR By affixing a true copy of each to the door of said premises, which is recipient's: [] actual place of business [X] dwelling house (place of abode) within the state.

Deponent was unable, with due diligence to find recipient or a person of suitable age and discretion, having called thereat on the 20th day of December, 2013 at 4:24PM
 on the 21st day of December, 2013 at 9:46AM & 8:20PM
 on the 23rd day of December, 2013 at 7:30AM
 on the 28th day of December, 2013 at 7:03AM & 9:10AM

Address confirmed by Stacey Edwards @ 1139 Bunker Hill Road

#5 MAIL COPY On January 2, 2014, deponent completed service by depositing a true copy of each document to the above address in a 1st Class postpaid properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York.

#6 DESCRIPTION A description of the Defendant, or other person served, or spoken to on behalf of the Defendant is as follows:

Sex: _____ Color of skin: _____ Color of hair: _____ Age: _____ Height: _____
 (use with #1, 2 or 3) Weight: _____ Other Features: _____

#7 WIT. FEES the authorized witness fee and / or traveling expenses were paid (tendered) to the recipient.

#8 MILITARY SRVC Deponent asked person spoken to whether the defendant was presently in military service of the United States Government or of the State of New York and was informed that defendant was not.

#9 OTHER

Sworn to before me on January 2, 2014



ROBERT C. HAAK
 NOTARY PUBLIC, State of New York
 No. 01HA6189141, Saratoga County
 Commission Expires, June 23, 2016



Sarah Roberts
 Server's Lic #
 File # 1319900

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____

I personally served the summons on the individual at *(place)* _____
on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify):* _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

*Server's signature**Printed name and title**Server's address*

Additional information regarding attempted service, etc: